

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

JAQUENETTE M. OSBORNE, ¹	:	APPEAL NO. C-120797
	:	TRIAL NO. DR0103358
Plaintiff-Appellant,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
DAVID G. OSBORNE,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Jaquenette M. Osborne appeals from the trial court's October 30, 2012 post-decree, civil contempt order holding Jaquenette in contempt for denying her former husband, defendant-appellee David G. Osborne, the parenting time allocated to him by the shared-parenting plan for their minor child, Nina.

Jaquenette and David were divorced in 2003. A shared-parenting plan for the care of Nina was included in the decree of divorce. The plan, as modified by the court in 2005, allocated parenting time between the parties. In the fall of 2011, Jaquenette began to prevent David from seeing Nina as specified in the plan. David

¹ The appellant identifies herself as Jaquenette M. Osborne-Rinner in her brief.

ultimately moved the court to compel visits. After hearing testimony from the parties and from Nina's therapist, and listening to a recorded in-camera interview of Nina, a magistrate found Jaquenette in contempt and recommended a 30-day period of confinement. Jaquenette filed objections to the magistrate's decision.

In its October 30, 2012 entry, the trial court overruled the objections, and adopted the magistrate's decision as modified. The trial court found Jaquenette to be in contempt and sentenced her to 30 days of incarceration. But the confinement was made conditional on her performance of five separate actions, including complying with the parenting schedule, arranging for family therapy, paying David's attorney fees within three months, and reimbursing David for her share of Nina's therapy fees within one month. The trial court set the matter "for imposition of sentence" on March 6, 2013, more than four months after the October entry. Finally, the trial court cautioned Jaquenette that failure to satisfy the purge conditions "may" result in her confinement without further notice. Jaquenette sought appeal from the October 30, 2012 entry.

On appeal, Jaquenette asserts that the trial court abused its discretion in finding her in contempt. But we do not reach the merits of her single assignment of error. Because an appellate court has jurisdiction to review only the "judgments or final orders" of lower courts within its appellate district, we must determine our own jurisdiction to proceed before reaching the merits of any appeal. Ohio Constitution, Article IV, Section 3(B)(2); *see State ex rel. White v. Cuyahoga Metro. Hous. Auth.*, 79 Ohio St.3d 543, 544, 684 N.E.2d 72 (1997).

This court has long held that to be final and appealable, a trial court's contempt order must include a finding of contempt, *and* the imposition of a fine or a

period of confinement. *See, e.g., State ex rel. Buchman v. Stokes*, 36 Ohio App.3d 109, 110, 521 N.E.2d 515 (1st Dist.1987) (a finding of contempt followed by sanctions is a final appealable order under R.C. 2705.09). But a contempt order is not final and appealable “if it only imposes a conditional punishment coupled with an opportunity to purge the contempt.” *Carroll Cty. Bur. of Support v. Brill*, 7th Dist. No. 05 CA 818, 2005-Ohio-6788, ¶ 22. To be appealable, a contempt order must also impose a sanction. *Star Bank v. Valley Engine, Inc.*, 1st Dist. No. C-930496, 1994 Ohio App. LEXIS 3182, *4 (July 20, 1994).

Here, the record certified for our review is silent not only as to whether Jaquenette has failed to satisfy the conditions, but also as to whether the trial court has actually imposed a sanction. Therefore, the contempt order is not final and appealable. *See Star Bank, supra*.

The appeal is dismissed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on June 14, 2013

per order of the court _____.
Presiding Judge